

**SUPREME COURT MINUTES
THURSDAY, AUGUST 20, 1998
SAN FRANCISCO, CALIFORNIA**

S058909 State Compensation Insurance Fund, Petitioner

v.

Workers' Compensation Appeals Board and
Adrienne Stuart, Respondents

The judgment of the Court of Appeal is reversed and the penalty imposed on SCIF pursuant to section 5814 is annulled.

Werdegar, J.

We Concur:

George, C.J.

Baxter, J.

Chin, J.

Brown, J.

Dissenting Opinion by Mosk, J.

I Concur:

Kennard, J.

S061699 Aydin Corporation, Plaintiff and Respondent
 v.
 First State Insurance Company, Defendant and Appellant
 The judgment of the Court of Appeal is affirmed.

Brown, J.

We Concur:
George, C.J.
Baxter, J.
Chin, J.

Dissenting Opinion by Mosk, J.

I Concur:
Werdegarr, J.

Dissenting Opinion by Kennard, J.

I Concur:
Werdegarr, J.

S065546 Avalon Bay Foods et al., Petitioners
 v.

Workers' Compensation Appeals Board and
Robert Moore, Respondents

[T]he judgment of the Court of Appeal, annulling the order of the board, is affirmed. The case is remanded with directions to enter an order consistent with the views expressed herein.

Mosk, J.

We Concur:
George, C.J.
Kennard, J.
Werdegarr, J.
Chin, J.

Concurring Opinion by Baxter, J.

Concurring Opinion by Brown, J.

S042737 In re Gerald Gallego
 on
 Habeas Corpus

The time for granting or denying a rehearing in the above cause is hereby extended to and including November 1, 1998, or the date upon which a rehearing is either granted or denied, whichever occurs first.

S048929 In re Malcolm J. Robbins
 on
 Habeas Corpus

The time for granting or denying a rehearing in the above cause is hereby extended to and including November 1, 1998, or the date upon which a rehearing is either granted or denied, whichever occurs first.

S015381 People, Respondent
 v.
 Tracey Lavelle Carter, Appellant

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to and including October 16, 1998.

No further extensions of time are contemplated.

S026223 People, Respondent
 v.
 Gregory Scott Smith, Appellant

On application of appellant and good cause appearing, it is ordered that the appellant is granted to and including October 16, 1998, to request correction of the record on appeal. Counsel for appellant is ordered to notify the Clerk of the Supreme Court in writing as soon as the act as to which the Court has granted an extension of time has been completed.

S060624 In re Oscar Gates
 on
 Habeas Corpus

On application of the Attorney General and good cause appearing, it is ordered that the time to serve and file the informal response is extended to and including September 14, 1998.

S065485 Nelson F. Leone, Appellant

v.

Medical Board of California, Respondent

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondent's reply brief on the merits is extended to and including September 21, 1998.

S066764 People, Appellant

v.

Russell Anzalone, Respondent

On application of the Attorney General and good cause appearing, it is ordered that the time to serve and file respondent's brief on the merits is extended to and including September 15, 1998. No further extensions of time are contemplated.

S068360 In re William A. Noguera

on

Habeas Corpus

On application of petitioner and good cause appearing, it is ordered that the time to serve and file petitioner's reply to informal response to the petition for writ of habeas corpus is extended to and including September 25, 1998.

S042737 In re Gerald A. Gallego

on

Habeas Corpus

The application of the California Appellate Project for permission to file an amicus brief in support of petitioner Gerald A. Gallego is hereby granted.

S048929 In re Malcolm J. Robbins

on

Habeas Corpus

The application of the California Appellate Project for permission to file an amicus brief in support of petitioner Malcolm J. Robbins is hereby granted.

S009522 People, Respondent

v.

Lester Robert Ochoa, Appellant

The request of respondent to allocate to 45 minutes for respondent's argument in the above-referenced automatic appeal is hereby granted.

BM 5005 In the Matter of the Suspension of Attorneys
For Nonpayment of Dues

Due to clerical error on the part of the State Bar of California, and good cause appearing, it is ordered that the order of suspension for nonpayment of dues filed on July 26, 1985, effective August 5, 1985, be amended nunc pro tunc to strike the name of Fred Schwarz.

BM 5275 In the Matter of the Suspension of Attorneys
For Nonpayment of Dues

Due to clerical error on the part of the State Bar of California, and good cause appearing, it is ordered that the order of suspension for nonpayment of dues filed on September 18, 1986, effective September 29, 1986, be amended nunc pro tunc to strike the name of David Terreo.

S071108 In re **Donald G. Durbin, Jr.** on Discipline

It is ordered that **Donald G. Durbin, Jr.** be suspended from the practice of law for two years, that execution of suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for 18 months and until he makes restitution to Sarah Solis, or the Client Security Fund, if it has paid, in the amount of \$500, plus interest at the rate of 10% per annum from August 1, 1995, and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of Trials. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in decision filed March 5, 1998. If the period of actual suspension exceeds two years, he shall remain suspended until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. It is also ordered that he take and pass the Multistate Professional

Responsibility Examination within the period of actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and those costs are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S071110 In re **Martin Resendez Guajardo** on Discipline

It is ordered that **Martin Resendez Guajardo** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for one year subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order regarding the stipulation filed April 7, 1998. Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and those costs are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

S071111 In re **Jon Louis August** on Discipline

It is ordered that **Jon Louis August** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 90 days and until he provides to the State Bar Probation Unit a medical report evidencing that he is psychologically and emotionally capable of resuming the practice of law without posing a danger to his clients, the courts and the public. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed March 9, 1998, as modified by its order filed March 18 and April 17, 1998. If the period of actual suspension reaches or exceeds two years, he shall remain actually suspended until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. It is also ordered that he comply with rule 955, California Rules of Court, and that he

perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6140.7 (as amended effective January 1, 1997) and one-quarter thereof shall be paid prior to each February 1 of calendar years 1999, 2000, 2001, and 2002.

*(See Business & Professions Code, § 6126, subd. (c).)

S071116 In re **James Benjamin Andres** on Discipline

It is ordered that **James Benjamin Andres** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including actual suspension for 90 days, recommended by the Hearing Department of the State Bar Court in its Amended Decision Filed March 2, 1998, as modified by its order filed March 12, 1998. It is also ordered that he take and pass the Multistate Professional Responsibility Examination, and provide the State Bar Probation Unit with satisfactory proof that he has passed that examination, within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S071181 In re **Michael K. Brady** on Discipline

It is ordered that **Michael K. Brady** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 60 days and until he makes restitution to Charles M. Zurek, Jr., (or the Client Security Fund, if appropriate) in the amount of \$2000 plus 10% interest per annum from January 4, 1996, and furnishes satisfactory proof thereof to the State Bar Probation Unit. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its decision filed February 26, 1998, as

modified by its order filed March 18, 1998. If the period of actual suspension exceeds two years, he shall remain actually suspended until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of his actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) If the period of actual suspension exceeds 90 days, it is also ordered that he comply with rule 955, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant Business and Professions Code 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S071182 In re **Martin Wolff** on Discipline

It is ordered that **Martin Wolff** be suspended from the practice of law for three years, that execution of suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for two years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on March 31, 1998. He is further ordered that he take and pass the Multistate Professional Responsibility Examination, and provide the State Bar Probation Unit with satisfactory proof that he has done so, during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) He is also ordered to comply with rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days,

respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S071183 In re **John Christopher Graef** on Discipline

It is ordered that **John Christopher Graef** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 30 days. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed March 4, 1998, as modified by its order filed April 9, 1998. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6140.7 (as amended effective January 1, 1997) payable in equal amounts prior to February 1 of calendar years 1999, 2000, 2001, 2002 and 2003.

S071184 In re **Michael G. Calhoun** on Discipline

It is hereby ordered that **Michael G. Calhoun** be disbarred from the practice of law and that his name be stricken from the roll of attorneys. He is also ordered to comply with rule 955, California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar.

*(See Business & Professions Code, § 6126, subd. (c).)

S071185 In re **Jay Harlan Davison** on Discipline

It is ordered that **Jay Harlan Davison** be suspended from the practice of law for three years, that execution of suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including one year actual suspension, recommended by the Hearing Department of the State Bar Court in its decision filed February 11, 1998. It is further ordered that he comply with rule 955, California Rules of Court, and that he perform

the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and shall be payable in accordance with Business and Professions Code section 6140.7.

*(See Business & Professions Code, § 6126, subd. (c).)

S071186 In re **Paul S. James** on Discipline

It is ordered that **Paul S. James** be suspended from the practice of law for two years and until he makes restitution to Esther Pantoja, or to the State Bar Client Security Fund, if appropriate, in the amount of \$20,000.00 and furnishes satisfactory proof thereof to the State Bar Probation Unit, that execution of said suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 30 days. He is further ordered to comply with the other conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its Further Order Regarding Stipulation filed May 6, 1998. It is also ordered that he take and pass the Multistate Professional Responsibility Examination, and provide State Bar Probation Unit with satisfactory proof that he has done so, within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).

S071189 In re **Brian Douglas Stromsoe** on Discipline

It is ordered that **Brian Douglas Stromsoe** be suspended from the practice of law for three years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for eighteen months and until he makes restitution jointly to Emily Wong and Esther Rivas, or to the State Bar Client Security Fund if it has paid, in the amount of \$809.75, plus 10% per annum interest from April 16, 1996 and to Brad and Darlene Nieland, or to the State Bar Client Security Fund if it has paid, in the amount of

\$3,500, plus 10% per annum interest from August 1, 1996 and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of Trials. If the period of actual suspension exceeds two years, he shall remain suspended until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. He is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its decision filed March 20, 1998. It is also ordered that he take and pass the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) He is further ordered to comply with rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are to be awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and those costs are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S071190 In re **Robert Alan Walker** on Discipline

It is ordered that **Robert Alan Walker** be suspended from the practice of law for two years, that execution of suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including actual suspension for 30 days, recommended by the Hearing Department of the State Bar Court in its decision filed March 6, 1998. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).